FILE COPY

Office - Supreme Court, U.S.
FILED
MAY 27 1942
CHARLES ELMORE CROPLEY
CLERK

Supreme Court of the United States

OCTOBER TERM, 1941

No. 738

THE UNITED STATES OF AMERICA, *Petitioner*,

v.

ELIZABETH KERR, ADMINISTRATRIX OF THE ESTATE OF JOSEPH KELLY KERR, DECEASED.

PETITION OF RESPONDENT FOR REHEARING.

(Opinion, May 4, 1942)

CAMDEN R. MCATEE,
Attorney for Respondent.

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

INDEX

	Page
REQUEST FOR REHEARING	1
THE CASE PRESENTED:	
New Section 303 repealed original Section 303	2
The admissions and stipulation require herein its application to undisputed but overlooked facts	2
The new issue presented after decision below and accepted in the opinion	3
THE OVERSIGHTS IN THE PRESENT OPINION:	
The paradox of holding delay of payment not of influence upon statutory construction but of weight upon the statutory obligation	4
The oversights as to the meaning and application of present statutory value	5
The oversight as to the repeal of original Section 303, and consequent opinion adoption of its provision and construction to the exclusion of the different provisions of new Section 303	5
The oversights of fact and precedent in giving effect in the opinion to the inter-office letter from client to counsel	6
The application of new Section 303 to all commutations, regardless of the time of the prior award, denied by oversight in the opinion	8
CONCLUSION	10
CITATIONS:	
Veterans Administration Recommendation No. 13, January 6, 1925, for repeal of original Section 303 by Congress (68 Cong. 2d Session)	5
H. R. Committee Report, 1518, (Idem) in acceptance of the Recommendation	5
Bankers Pocahontas Coal Co. v. Burnet, 287 U. S. 308	3
Burnet v. Chicago Portrait Co., 285 U. S. 1	6

	Page
Crouch v. United States, 266 U. S. 180	9
Duplex P. P. Co. v. Deering, 254 U. S. 474	7
Fox v. Standard Oil Co., 294 U. S. 87	9
Hatch v. United States, 29 F. (2) 213	11
Helvering v. N. Y. Trust Co., 292 U. S. 455	7
Hines v. United States, 105 F. (2) 87; 70 App. D. C. 206	9
Iselin v. United States, 270 U. S. 45	7
Kerr v. United States, 108 F. (2) 585	2
Lynch v. United States, 292 U. S. 571	5
McCaughn v. Hershey Chocolate Co., 283 U. S. 488	7
McCulloch v. Smith, 293 U. S. 228	10
Pagel v. Pagel, 291 U. S. 473	11
Sanford's Estate v. Commissioner, 308 U. S. 51	9
Singleton v. Cheek, 284 U. S. 493	5, 10
United States v. Ellison, 74 F. (2) 864, Cert. denied 295 U. S. 750	9
United States v. Pfitsch, 256 U. S. 547	9
United States v. Hartwell, 6 Wall. 385	7
United States v. Jackson, 280 U. S. 183	6-7
United States v. Madigan, 300 U. S. 500	7
United States v. Missouri P. R. Co., 278 U. S. 269	9
Van Camp & Sons Co. v. American Can Co., 278 U. S. 245	6
Webster v. Luther, 63 U. S. 331	7

Supreme Court of the United States

OCTOBER TERM, 1941

No. 738

THE UNITED STATES OF AMERICA, *Petitioner*,

v.

ELIZABETH KERR*, ADMINISTRATRIX OF THE ESTATE OF JOSEPH KELLY KERR, DECEASED.

PETITION OF RESPONDENT FOR REHEARING.

Rehearing is respectfully requested, on behalf of respondent, for purposes of a re-examination of the opinion, rendered herein on May 4, 1942, in regard to evident oversights concerning undisputed matters.

As it is of first importance to the Court and litigants, whether the opinion really straightens the way of decision in insurance cases under new Section 303, enacted into the World War Veterans Act in 1925, it becomes the duty of counsel to speak lest inadvertence in misconception of the case cause error to be clothed in the ermine of justice.

---

*Citizens Loan & Trust Company, substituted, upon death of Mrs. Kerr, as Administrator.

THE CASE PRESENTED.

The contractual obligation of petitioner, arising on November 8, 1919, at the death of the insured, to pay the 240 monthly installments of $57.50 each to the surviving beneficiary, beginning in November, 1919, and ending in October, 1939, was always denied, with refusal of awards or payments in distribution, until judicially established herein after the end of the contract term.[1]

Section 303 of the World War Veterans Act, approved March 4, 1925, as retroactive to October 3, 1917, (referred to in the opinion as Section 303 as amended) entirely repealed and superseded original Section 303 of said Act, as a radical change of the prior law. As said in the opinion, it is the only present authority for making payment to the estate of the insured in discharge of the contractual obligation, as the result of the death of the surviving beneficiary in June, 1924, within the contract term; providing "*there shall be paid to the estate of the insured, the present value of the monthly installments thereafter payable; said value to be computed as of date of the last payment made under any existing award*".

Petitioner admits in the Petition for Certiorari (p. 4), the previous payment in distribution and satisfaction, of the judgment award for $3,220, entered by the trial court after the maturity of the contract in 1939 as the recovery of the estate of the beneficiary, preliminary to its award of $10,580 to the estate of insured.

The parties stipulate (R. 4) the amounts of $8,234, as of the death of the beneficiary in 1924, and of $10,580, as of the maturity of the contract obligation on October 8, 1939, and always thereafter, are the statutory lump sum present values, purged of interest, of the 184 installments representing the contractual obligation to the estate of insured; the distribution of one of these lump sums by award to the estate of insured as a compliance with new Section 303, is the only subject matter of the present case.

---

[1] *Kerr v. United States*, 108 F. (2) 585, decided Dec. 4, 1939.

The stipulation and above admission are submitted to require that petitioner must also admit the propriety of award of said lump sum of $10,580, as of October 8, 1939, or as of said judgment awards thereafter. They satisfy the statutory phrase—"*as of the date of last payment made under any existing award*"—by establishing the "*last payment made under an existing award*", occurred after the maturity of the contract, when and always thereafter the lump sum payment is admittedly $10,580, for award as the distributive recovery by the estate of the insured.

Thus, the decision below is sustained by undisputed facts, which it is respectfully submitted are overlooked in the opinion.

In April, 1940, pursuant to new Section 303, the trial court entered judgment awards of $3,220 (R. 2) to the beneficiary estate, and of $10,580 to the estate of insured as their recoverable distributions, and subsequently reduced (R. 30) the $10,580 award to $8,234. When the Court of Appeals reversed on this point, and had denied rehearing (R. 46), the petitioner petitioned for, and certiorari was granted for its review.

As the basis for rehearing the case on a new issue, petitioner exhibited in the Court of Appeals (R. 41), a letter of July 14, 1941 from the Veterans Administrator to the Solicitor General, stating new Section 303 was asked for and enacted by Congress, with the sole intent of amending and removing a special inequity in the application of original Section 303 to a single class of cases, and that new Section 303 was administered in the ensuing 17 years, contrary to the ruling of the Court of Appeals. Respondent promptly objected (R. 42-6) that the Veterans Administrator had proposed new Section 303 to Congress to repeal original Section 303, and to obtain in new Section 303 new provisions of law to permit the immediate discharge of obligations and early closing of estates, and that the letter-statements being always known, were not sufficient grounds for a new trial.[2] The petition for rehearing was summarily overruled.

---

[2] *Bankers Pocahontas Coal Co.*, 287 U. S. 308, 313.

It being admitted a last existing award, with final payment thereof in distribution to the beneficiary estate, was made after October 8, 1939, and that the agreed lump sum of $10,580 is the present commuted value necessary, by award administratively or judicially, to satisfy the contractual obligation to the estate of insured on or after October 8, 1939, it follows the award of $10,580, without interest, was properly made on April 4, 1940. The plain statutory provisions of new Section 303, being entirely applicable to the admitted facts, delay in their application is not material, as *it is neither apportionable, nor of influence upon the statutory application.*

THE OVERSIGHTS IN THE PRESENT OPINION.

The opinion properly dismisses as without weight in the case, the single question propounded to justify the grant of the Certiorari—*whether delay in its payment increases a government contractual obligation*—on the grounds that delay is not easily apportioned, and is without influence upon the statutory construction.

Paradoxically, the opinion holds the delay affects the amount of the contract obligation, by saying that Congress has neither empowered the Court to authorize payment of damages for delay in its payment, nor to award interest on past due insurance contract obligations, *overlooking*, and conflicting with its contrary conclusion, that Congress clearly intended the satisfaction of the obligation to be the payment "as of the date of last payment made under any existing award", of a lump sum representing the present value at that time of the remaining installments purged of interest; *overlooking* that the admitted payment, regardless of its date, on or after its entry on April 5, 1940, of the $3,220 judgment award is *"the last payment made under an existing award"*, and justifies, in fulfillment of this intent, the award of the present value of the remaining installments in the lump sum of $10,580, agreed as existing on and always after the previous maturity of the contract.

Abstractly, the first material *oversight* of the opinion is that it sees and considers the commuted present value of the payable contract installments as a principal sum enhanced by interest, instead of as a principal sum that the same rate of interest would enhance at the end of the contract term into the total of the installments. Specifically, the opinion thus *overlooks* the original obligation is to pay in a fixed term in fixed installments, both the $10,000 principal and its annual interest at 3½ per cent compounded annually, and that their commutation, correctly said in the opinion to rest solely upon Section 303;[3] as of the date of last payment made under any existing award, purges out the interest by determining the lump sum which at the same interest rate at the end of the contract term will equal the total payable installments. Specifically, the opinion thus *overlooks* that $10,580, being both the present and real value of the installments at the end of the contract term, and always thereafter, thus remains and is the statutory distribution for award to the estate of insured whenever the last payment made under any existing award is made subsequent to the end of the contract term.

Abstractly, the second material *oversight*, of the opinion, is that Section 303, enacted in 1925, is not considered to have repealed and entirely superseded, as a radical change in the prior law, the different provisions of original Section 303.[4] Specifically, the *oversight* is that new Section 303, be-

[3] The opinion further indicates the alternate provision for commutation rests upon the lack of power in Congress or in the Administration to reduce the contractual obligation (Cf: *Lynch* v. *United States*, 292 U. S. 571).

[4] (a) New Section 303, as enacted in 1925, is declared to effect such radical change in *Singleton* v. *Cheek*, 284 U. S. 493.

(b) That the Veterans Administration recommended new Section 303 in entire repeal and substitution for original Section 303, and Congress so enacted the new Section, contrary to the contentions of petitioner made and accepted in the opinion, is shown in Recommendation 13 (R. 17) and H. R. Rep. 1518 (R. 19), and *infra*, Note 10.

ing held amended only in one aspect applicable to a single class of cases, is held to contain and be ruled by a repealed provision of original Section 303.

These material oversights produce others in the opinion conclusions.

The opinion holds administrative allegations of a Congressional limited intent in enacting new Section 303, and of continuous administrative application of such intent, instead of its plain words, to its construction, justify and require its application to a single class of cases, exclusive of this case and other cases where administrative award was not made before 1924, *overlooking* that such limited intent, or such application of the new Section is contradicted by the record;[5] *overlooking* that judicial construction of a patently unambiguous phrase, is not obtainable from collateral circumstances,[6] unless its literal application will offend the moral sense as involving injustice, oppression or absurdity, or leading to an unreasonable result plainly at variance with the statute as a whole;[7] *overlooking* that such judicial construction is not obtainable from Committee reports or other aids to construction;[8] *overlooking* that the resulting opinion construction reads the phrase out of new Section 303, and, for its settlement of all but a very limited class of cases, reads into the section a phrase from the original but repealed Section 303, thus conflicting with the further opinion conclusion that Section 303 is the sole existing authority on and after March 4, 1925, for making payment of the contractual obligation to the estate of the insured.

The opinion holds the limited legislative intent and construction are established by statements in an inter-office communication from client to counsel; *overlooking* that such holding conflicts with all prior precedents, including *United*

---

[5] Note 4b, *supra.*

[6] *Van Camp & Sons Co.* v. *American Can Co.*, 278 U. S. 245, 254.

[7] *Burnet* v. *Chicago Portrait Co.*, 285 U. S. 1, 16.

[8] Note (6), *supra.*

States v. *Jackson*, quoted and cited in the opinion,[9] and that non-existence of the intent and practice, tardily offered as a straw to stumble over, are conclusively established by the matters of record.[10]

---

[9] The Jackson opinion precisely states its objective to be determination of: "* * * *'the purpose of language * * * not so plainly apparent as to preclude resort to judicial interpretation'* by use of *'familiar and approved sources,'* subject to the rules that great weight attach to consistent departmental constructions, and that they will not be overturned unless clearly wrong, or unless a different construction is required; it contains an analysis of numerous departmental decisions pertinent to the construable language.

"If the language be clear, it is conclusive. There can be no construction where there is nothing to construe—U. S. v. *Hartwell*, 6 Wall. 385, 386," quoted in *Helvering* v. *N. Y. Trust Co.*, 292 U. S. 455, 464."

For construction of ambiguous language, the precedents deny any weight to statements to committees or to floor discussions by persons not in charge of the legislation (*McCaughn* v. *Hershey Chocolate Co.*, 283 U. S. 488; *Duplex P. P. Co.* v. *Deering*, 254 U. S. 474), and limit consideration of circumstances to committee reports (*United States* v. *Madigan*, 300 U. S. 500, 504, a war risk insurance question), and to such uniform departmental construction as does not defect the obvious purpose of the words. (*Webster* v. *Luther*, 63 U. S. 331, *Iselin* v. *United States*, 270 U. S. 45.)

[10] The alleged limited intent of enactment and limited application of new Section 303 put forward as ground for rehearing in the inter-office letter of July, 1941, and given effect in the opinion is submitted previously entirely unknown (1) to Congress or the administration is recommending repeal of original Section 303, (vide note 4b, *supra*); (2) to the Bureau of War Risk Litigation when it had approved for payment the original $10,580 judicial award, for its Director wrote respondent counsel, June 28, 1940: *"The error in this respect was called to the attention of the Department by the Veterans Administration after the judgment had been transmitted with an authorization for its payment"*; (3) to respondent trial counsel writing the motion (R. 3) for amendment of the $10,580 judgment, as it first appears in his affidavit (R. 4) filed six months later (4) to petitioner in the Court of Appeals below where its brief only says: *"The amendment of March 4, 1925, was sponsored by the Veterans Bureau, and, shortly after its enactment, the Cody case was reconsidered under it,"* clearly establishing its alleged enactment to meet the Cody case is an afterthought; (5) to the Veteran Commissioner who advised the trial court December 31, 1940, " * * * *Section 303 as amended was intended to supersede all prior legislation * * * evidenced by history*

The opinion holds the Court of Appeals erroneously viewed the due and awardable distribution as $10,580—calculated as 184 x $57.50, representing a payment of interest as well as principal—contrary to Congressional intent that the value of the remaining installments, purged of interest, should be paid in a lump sum to the estate, *overlooking* the contrary and certain conclusion (R. 38) of the Court of Appeals:

> "At the time of judgment in this case, it is clear that the present value of the remaining installments was their true value."

and *overlooking* the Court of Appeals only directed the payment of $10,580, agreed by the parties to be said present value.

In rightfully declaring Section 303 is the only present authority for making payment to the estate, the opinion *overlooks* that it has no concern for original but repealed Section 303 or its constructions, and that, after repeal of original Section 303, its sole concern is the application of the new and substituted Section 303 as such present authority. It *overlooks* that new Section 303, retroactive to October 6, 1917, (R. 12), is complete, authorizing the commutation, with precise statement of the determinable true value, of the remaining installment obligation for its payment in a lump sum to the estate of insured, instead of in installments to persons in the permitted class, whenever there is no designated or surviving beneficiary, or the designated surviving beneficiary dies within the term, or the recipient dies or forfeits rights under any installment award in course of payment at the time of enactment of the section, excepting existing installment awards to estates of last

---

*of said statute * * * the exceptions stated in the proviso thereto, and the final statement therein, that this section shall be deemed to be in effect as of October 6, 1917"*; (6) by its evident entire application to adjustment of cases involving awards subsequent to 1924 as recorded in opinions of this Court, and to all cases regardless of date of award, as hereafter fully shown.

surviving beneficiaries; *overlooking* that these provisions radically changed the prior provisions of original Section 303 (R. 16), which authorized commutation, without precise statement of the determinable true value, whenever no person in the permitted class survived either at the death of the insured or at the death of the designated beneficiaries within the term, which thus precipitated existing installment awards into a forthwith commutation, from which new Section 303 specifically preserves them.[11]

It *overlooks* the radical change in the prior law, made by the new and substituted Section 303, as retroactive to October 6, 1917, was so intended by the Veterans Administration, so accepted by Congress, so represented and understood by the trial court, and so recognized previously in this Court.[12]

It *overlooks* the alleged exception, that the phrase is to be held inapplicable in case of delay, entirely falls away since delay is without influence in construction of the phrase.

It *overlooks* that action brought upon the claim after disagreement removes the controversy out of administration, and entirely into judicial determination of the right and recovery prescribed by new Section 303.[13]

By its statement that new Section 303 does not apply to awards made before 1924, the opinion *overlooks* that the statutory phrase: *"Said value shall be computed as of the date of last payment made under any existing award,"*

---

[11] (a) Thus, the necessary commutation of the *Cody* installment award under original Section 303 became unnecessary under new Section 303 as excepted by its proviso.

(b) The wider intent and effect of new Section 303 in comparison with original Section 303 is stated in *Hatch* v. *United States*, as quoted (R. 20) by the Veteran Commissioner to the trial court.

[12] Notes 4 and 10, *supra*.

[13] *United States* v. *Pfitsch*, 256 U. S. 547, 552.
Crouch v. *United States*, 266 U. S. 180, 182.
United States v. *Missouri P. R. Co.*, 278 U. S. 269.
Fox v. *Standard Oil Co.*, 294 U. S. 87.
Sanford's Estate v. *Commissioner*, 308 U. S. 51.
United States v. *Ellison*, 74 F. (2) 864, 868, (C. C. A.-4) Cert. denied, 295 U. S. 750.
Hines v. *United States*, 70 App. D. C. 206, 209, 105 F. (2) 87.

became, has been and is literally applicable, administratively or judicially, in every case, regardless of when the original installment or other award was made, for commutation of the remaining installments into lump sum present value.

Consider that such application was evidently required after its enactment in March, 1925, where, this Court has found[14] administrative awards were first made in August, 1925, in full and final distribution, respectively, to the estate of the beneficiary, who died in 1923 after surviving the death in 1921 of insured, and, in a lump sum, to the estate of insured; and, where this Court has found[15] administrative awards were first made in 1932 in full and final distribution, respectively, to the estates of the beneficiaries, who died in 1926 and 1932, after surviving the death in 1919 of the insured, and, in a lump sum, to the estate of the insured, and the case-record reveals that the Administration wrote to the Administrator of the insured that such commutation was required by and made under new Section 303.

Consider that such application is evidently also required in the cases of any determined installment award, whether

---

[14] *Singleton* v. *Cheek*, 284 U. S. 493.

In avoidance of the implicit application of new Section 303 to this and the subsequent illustrations, petitioner brief below told the Court of Appeals:

> "* * * the statute has been construed administratively to mean that an award to a beneficiary is not to be regarded as 'existing' after the death of the beneficiary. Thus, in the present case, the award to the estate of the beneficiary would, under the administrative construction of the statute, be regarded as 'existing' only during the lifetime of the beneficiary. * * * The effectiveness of this judgment upon the rights of the parties is restricted to the 56 months during which the beneficiary survived the insured."

In the same spirit of avoidance, petitioner has assured this Court differently, that the statute was always intended and therefore only construed as applicable only to a special class of cases.

[15] *McCulloch* v. *Smith*, 293 U. S. 228.

previously made and in course of payment at the enactment of new Section 303, or thereafter made.[16]

Consider that such application is evidently required herein, where awards, whether administrative or judicial, were to be made, as in the cases cited above, on a date subsequent to the death of the surviving beneficiary and also subsequent to the maturity date of the contract, in full and final distribution, respectively, to the estate of the beneficiary, who survived insured and died in 1924, and, in a lump sum, to the estate of the insured. It is certain the true present value of the remaining installments at the maturity of the contract would be payable, as it would be if the final awards in any of the foregoing cases were made on or after the last day of the contract term.

CONCLUSION.

For respondent, for cause thus shown, it is respectfully submitted the judgment below should be affirmed by modification of the present opinion, by which it is now subject to reversal.

Respectfully,

CAMDEN R. MCATEE,
Attorney for Respondent.

CERTIFICATE OF COUNSEL.

Camden R. McAtee, attorney for respondent, hereby certifies the foregoing Petition for Rehearing is presented in good faith, and not for delay.

CAMDEN R. MCATEE.

---

[16] *Pagel* v. *Pagel*, 291 U. S. 473, where the opinion finds insured died in October, 1925, the surviving beneficiary received an installment award until he died in 1928, and lump sum award then was made to the estate of insured.

These illustrations (14, 15, 16) are of the evident application of new Section 303 to awards made subsequent to 1924 to which the opinion holds it is inapplicable. In *Hatch* v. *United States*, 29 F. (2) 213 (R. 20) its application is equally evident in case of award previously made, where in November, 1925, payments under awards made in 1919 were suspended and in 1926 commutation of the remaining installments under new Section 303 was precisely ordered.

SUPREME COURT OF THE UNITED STATES.

No. 738.—October Term, 1941.

United States of America, Petitioner, *vs.* Citizens Loan & Trust Company, Administrator de bonis non of the Estate of Joseph Kelly Kerr, deceased.	On Writ of Certiorari to the United States Court of Appeals for the District of Columbia.

[May 4, 1942.]

Mr. Justice Byrnes delivered the opinion of the Court.

Joseph Kelly Kerr, while in the United States Army during the last war took out a yearly renewable term insurance policy in the amount of $10,000, naming as beneficiary his father, Eugene Kerr. The insured died November 8, 1919. On March 6, 1920, the War Risk Bureau denied any liability under the contract. Eugene Kerr, the designated beneficiary, died June 24, 1924. This suit was filed November 6, 1925.

In the District Court judgment was rendered denying any recovery on the policy. The Court of Appeals for the District of Columbia, on December 4, 1939, reversed the judgment of the District Court. 108 F. 2d 585. The District Court on April 5, 1940, entered judgment for $3220.00 in favor of the estate of Eugene Kerr, the beneficiary under the policy, and a judgment for $10,580.00 in favor of the estate of the insured, Joseph Kelly Kerr. Upon rehearing the District Court by its order of January 9, 1941, reduced the latter judgment to $8,227.50. On appeal the Court of Appeals again reversed the District Court and ordered the payment of $10,580.00. 122 F. 2d 638. We granted certiorari. — U. S. —.

The insurance contract provided for the payment of 240 monthly installments of $57.50 each. It is not disputed that Eugene Kerr, as beneficiary, was entitled to receive the 56 monthly installments that accrued during his lifetime.[1] They aggregated

[1] *I. e.* from Nov. 8, 1919, the date of the death of the insured, through June 8, 1924, the last due date for a monthly installment prior to the beneficiary's death.

$3220.00. The portion of the District Court's judgment which awarded that sum to Eugene Kerr's estate is not in controversy.

The issue here involves only the amount due the estate of Joseph Kelly Kerr, the insured, on the 184 installments remaining after the death of the beneficiary. The government contends that the amount due the estate is $8234, which represents the present value of the 184 installments computed as of the death of the beneficiary on June 24, 1924. Respondent argues that the amount due is $10,580, which is the aggregate of 184 installments of $57.50 each.[2]

Prior to 1924 the statutes of the United States directed that when the estate of an insured became eligible to proceeds under the contract,[3] they should be paid in regular monthly installments. The most recent enactment prior to that year was the Act of August 9, 1921, which provided:

"If no person within the permitted class of beneficiaries survive the insured, then there shall be paid to the estate of the insured the monthly installments payable and applicable under the provisions of Article IV of the War Risk Insurance Act [Act of October 6, 1917, c. 105, 40 Stat. 398, 409] . . . ."[4]

The World War Veterans Act of 1924[5] superseded the War Risk Insurance Act of 1917 and its amendments. It provided, in § 303:

"If no person within the permitted class of beneficiaries survive the insured, or if before the completion of payments the beneficiary or beneficiaries shall die and there be no surviving person within said permitted class then there shall be paid to the estate of the insured, the present value of the monthly installments thereafter payable under the provisions of this title . . . ."

This section altered the method of payment only with respect to benefits payable to the estates of insured. It did not change the method of payment to beneficiaries. Its obvious purpose was to have the obligation to the estate paid in one lump sum rather than in

---

[2] It is agreed that however this issue is resolved, respondent's recovery is subject to a deduction of $6.50, the amount of a premium due on the policy for November 1919, the month during which the insured died.

[3] The claim to the proceeds might fall to the estate in several ways, such as by the death of the named beneficiary or by the death of an insured who has designated no beneficiary. Since the respondent in this case became entitled as of the death of Eugene Kerr, the beneficiary, the latter will be spoken of as the critical event in our discussion.

[4] § 407, 42 Stat. 148.

[5] C. 321, 43 Stat. 607.

monthly installments. Since these installments included interest as well as principal, Congress desired to eliminate the interest when it provided for the lump sum payment. Accordingly it declared that the lump sum should be equal to "the present value of the monthly installments thereafter payable". The word "thereafter" plainly relates to the death of the beneficiary, in a case like the one before us. And this has been the interpretation placed upon the section by the Veterans Administration ever since, the requirement being that the present value is to be computed as of the date of the death of the beneficiary.

In 1925 § 303 was amended in several respects.[6] The only one of these which is important here is the addition of the following words: "said value to be computed as of the date of last payment made under any existing award." And this is important only because of the confusion which it has generated in the disposition of this case. According to a letter addressed to the Solicitor General by the Administrator of the Veterans Administration on July 14, 1941 (R. 41), the language quoted was added to § 303 to correct a specific inequity which had arisen in a number of cases following the 1924 Act but which is not encountered here. That inequity arose in this way: In several cases the estate of the insured had become entitled to the proceeds of the policy prior to 1924 and a number of the $57.50 monthly installments had already been paid to the estate of the insured at the time Congress enacted § 303 with its provision for a lump sum payment to the estate. Since § 303 was made retroactive to October 6, 1917, the amount due the estate in these cases, as in the others, was held to be the present value of the installments remaining due after the death of the beneficiary, computed as of the date of death of the beneficiary. But in these cases, unlike the others, that portion of the installments already paid to the estate which represented interest had to be deducted from the lump sum award. To avoid this partial withdrawal of funds which had actually been released in these particular cases Congress provided in the 1925 amendment that the "present value of the monthly installments thereafter payable" should be computed "as of date of last payment made under any existing award." Under this formula the installments which had been paid to the estate of an insured prior

[6] 43 Stat. 1310.

to 1924 were not disturbed. The Veterans Administration has consistently treated the 1925 amendment as applicable only to this limited number of cases. In the others, it has invariably computed the "present value" as of the date of death of the beneficiary. This administrative interpretation over a period of 17 years controlling the settlement of thousands of cases is entitled to great weight, "and such construction is not to be overturned unless clearly wrong or unless a different construction is plainly required." *United States* v. *Jackson*, 280 U. S. 183, 193.

In this case no award had been made prior to 1924 and hence the amount due to the insured's estate could not be computed "as of date of last payment made under any existing award." This language of the 1925 amendment therefore cannot be applied to the facts here. But it does not follow that the balance of § 303 does not apply. Indeed, § 303 is the only present authority for the making of any payments to the estate of the insured.[7] Disregarding the words added by the 1925 amendment, the section simply requires the payment to the estate of a lump sum equal to "the present value of the monthly installments thereafter payable." And the latter language, as we have said, has been consistently interpreted to mean "present value" as of the date of death of the beneficiary.

The Court of Appeals was of the opinion that because recognition of the claim had been delayed until after the passage of the 240 months, the principles of computation embodied in the 1924 Act and the 1925 amendment required a settlement as if there had been an award of monthly installments. That is, it took the view that the 184 monthly installments concededly due to the estate should be multiplied by $57.50, which represents a payment of interest as well as principal, and the resulting total of $10,586 awarded to respondent. But one of the purposes of the 1924 and 1925 enactments was to abolish the monthly installment method of settling the claims of veterans' estates. Congress could not have made clearer its intention that the value of the remaining installments, purged of interest, should be paid in a lump sum to the estate. Both the Veterans Administration and this Court have recognized a legislative policy against the allowance of in-

[7] The insurance contract is expressly made subject to the War Risk Insurance Act of 1917, and all amendments thereto. See White v. United States, 270 U. S. 175, 180.

terest on past due payments on these policies. *United States* v. *Worley*, 281 U. S. 339. The error which undermines respondent's contention and the decision of the Court of Appeals is the failure to give full effect to this Congressional purpose to eliminate interest from the lump sum settlement.

The Court of Appeals was evidently impressed by the delay in the settlement of respondent's claim. We share that concern. The insured died almost 23 years ago and final disposition of the case is only now in view. But responsiiblity for the delay is not easily apportioned.[8] And in any event it could not influence our construction of the language of the statute. Congress has authorized neither the payment of damages for the delay nor an award of interest on past due obligations incurred under these insurance certificates, and it is not within our power to do so.

The case is remanded for reinstatement of the judgment of the District Court.

Reversed.

A true copy.

Test:

Clerk, Supreme Court, U. S.

[8] Although the Veterans Bureau denied recovery on the policy in 1920, it was not until 1925 that this suit was instituted.